

manner of the indemnity agreement referred to in paragraph (a)(3) of this section.

(d) *Security interest.* When a sender sends an item to a Reserve Bank, the sender and any prior collecting bank grant to the sender's Administrative Reserve Bank a security interest in all of their respective assets in the possession of, or held for the account of, any Reserve Bank to secure their respective obligations due or to become due to the Administrative Reserve Bank under this subpart or subpart C of part 229 of this chapter (Regulation CC). The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or prior collecting bank, or if the sender or prior collecting bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

[45 FR 68634, Oct. 16, 1980, as amended at 51 FR 21745, June 16, 1986; Reg. J, 59 FR 22965, May 4, 1994; 62 FR 48171, Sept. 15, 1997]

EFFECTIVE DATE NOTE: At 62 FR 48171, Sept. 15, 1997 in § 210.5, paragraphs (a)(1) and (c) and the first sentence of paragraph (d) were revised, effective Jan. 2, 1998. For the convenience of the user, the superseded text follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) * * *

(1) Authorizes the receiving Reserve Bank (and any other Reserve Bank or collecting bank to which the item is sent) to handle the item subject to this subpart and to the Reserve Banks' operating circulars, and warrants its authority to give this authorization;

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(c) *Methods of recovery.* The Reserve Bank may recover the amount stated in paragraph (b) of this section by charging any account on its books that is maintained or used by the sender (or if the sender is another Reserve Bank, by entering a charge against the other Reserve Bank through the Interdistrict Settlement Fund), if:

(1) The Reserve Bank made reasonable written demand on the sender to assume defense of the action or proceeding; and

(2) The sender has not made any other arrangement for payment that is acceptable to the Reserve Bank.

The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged through the Interdistrict Settlement Fund may recover from its sender in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (a)(3) of this section.

(d) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a sender or prior collecting bank under this subpart or subpart C of part 229 of this title, the sender and prior collecting bank, by sending an item directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the sender's or prior collecting bank's assets in the possession of, or held for the account of, the Reserve Bank. * * *

§ 210.6 Status, warranties, and liability of Reserve Bank.

(a)(1) *Status and liability.* A Reserve Bank that handles an item shall act as agent or subagent of the owner with respect to the item. This agency terminates when a Reserve Bank receives final payment for the item in actually and finally collected funds, a Reserve Bank makes the proceeds available for use by the sender, and the time for commencing all actions against the Reserve Bank has expired. A Reserve Bank shall not have or assume any liability with respect to an item or its proceeds except—

(i) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care;

(ii) As provided in paragraph (b) of this section; and

(iii) As provided in subpart C of part 229 of this chapter (Regulation CC).

(2) *Reliance on routing designation appearing on item.* A Reserve Bank may present or send an item based on the routing number or other designation of a paying bank or nonbank payor appearing in any form on the item when the Reserve Bank receives it. A Reserve Bank shall not be responsible for any delay resulting from its acting on

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any designation, whether inscribed by magnetic ink or by other means, and whether or not the designation acted on is consistent with any other designation appearing on the item.

(b) *Warranties and liability.* (1) By presenting or sending an item, a Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor—

(i) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item); and

(ii) That the item has not been altered.

(2) The Reserve Bank also makes the warranties set forth in § 229.34(c) of this chapter, subject to the terms of part 229 of this chapter (Regulation CC). The Reserve Bank shall not have or assume any other liability to the paying bank or other payor, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

(c) *Time for commencing action against Reserve Bank.* A claim against a Reserve Bank for lack of good faith or failure to exercise ordinary care shall be barred unless the action on the claim is commenced within two years after the claim accrues. A claim accrues on the date when a Reserve Bank's alleged failure to exercise ordinary care or to act in good faith first results in damages to the claimant. This paragraph does not lengthen the time limit for claims under § 229.38(g) of this title (which include claims for breach of warranty under § 229.34 of this title).

[45 FR 68634, Oct. 16, 1980, as amended at 51 FR 21745, June 16, 1986; 53 FR 21984, June 13, 1988; Reg. J, 59 FR 22966, May 4, 1994; 62 FR 48172, Sept. 15, 1997]

EFFECTIVE DATE NOTE: At 62 FR 48172, Sept. 15, 1997, § 210.6 was amended by revising paragraphs (a)(1) and (b), effective Jan. 2, 1998. For the convenience of the user, the superseded text follows:

§ 210.6 Status, warranties, and liability of Reserve Bank.

(a)(1) *Status and Liability.* A Reserve Bank shall act only as agent or subagent of the owner with respect to an item. This agency terminates not later than the time the Re-

serve Bank receives payment for the item in actually and finally collected funds and makes the proceeds available for use by the sender. A Reserve Bank may be liable to the owner, to the sender, to a prior collecting bank, or to the depository bank's customer with respect to a check as defined in 12 CFR 229.2(k). A Reserve Bank shall not have or assume any liability with respect to an item or its proceeds except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care, except as provided in paragraph (b) of this section and except as provided in subpart C of part 229.

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(b) *Warranties and liability.* By presenting or sending an item, a Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor:

(1) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either:

(i) Entitled to enforce the item; or

(ii) Authorized to obtain payment on behalf of a person entitled to enforce the item); and

(2) That the item has not been altered.

The Reserve Bank also makes the warranties set forth in § 229.34(c) of this title, subject to the terms of part 229 of this title. The Reserve Bank shall not have or assume any other liability to the paying bank or other payor, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

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§ 210.7 Presenting items for payment.

(a) *Presenting or sending.* As provided under State law or as otherwise permitted by this section: (1) a Reserve Bank or a subsequent collecting bank may present an item for payment or send the item for presentment and payment; and

(2) A Reserve Bank may send an item to a subsequent collecting bank with authority to present it for payment or to send it for presentment and payment.

(b) *Place of presentment.* A Reserve Bank or subsequent collecting bank may present an item—

(1) At a place requested by the paying bank;

(2) In the case of a check as defined in 12 CFR 229.2(k), in accordance with 12 CFR 229.36;